

TO: Rural Development State Directors,
Rural Development Managers, and
Community Development Managers

ATTN: State Environmental Coordinators, and
Program Directors

FROM: James C. Alsop *(Signed by James C. Alsop)*
Acting Administrator
Rural Housing Service

William F. Hagy III *(Signed by William F. Hagy III)*
Acting Administrator
Rural Business-Cooperative Service

SUBJECT: 36 C.F.R. part 800
National Historic Preservation Act
Revised Section 106 Regulations

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify that our current environmental regulation, RD Instruction 1940-G, encompasses compliance with the revised regulation for implementing the National Historic Preservation Act (NHPA), codified at 36 C.F.R. part 800.

RD Instruction 1901-F also provides direction for compliance with historic preservation requirements; however, it is out-of-date. The requirements of RD Instruction 1940-G, sections 1940.304(d) and 1940.305(g), and the revised NHPA regulations at 36 C.F.R. part 800 take precedence.

BACKGROUND:

On December 12, 2000, beginning on page 77698 of volume 65 of the Federal Register

EXPIRATION DATE:
February 28, 2002

FILING INSTRUCTIONS:
PRECEDING RD Instruction 1940-G

(65 Fed. Reg. 77698), the Advisory Council on Historic Preservation issued a revised regulation to implement the 1992 amendments to the NHPA and to streamline the review process under section 106 of NHPA. This regulation, which is binding on all federal agencies, became effective January 11, 2001. It revises and replaces the NHPA regulation which was published in the federal register on May 18, 1999, and became effective June 17, 1999.

COMPARISON WITH PREVIOUS AN:

This is a revision of AN No. 3507 (1940-G), dated January 13, 2000, which expired January 31, 2001.

IMPLEMENTATION RESPONSIBILITIES:

The new NHPA regulation encourages federal agencies to integrate section 106 reviews with the environmental reviews completed under the National Environmental Policy Act. Since we already do this, the impact on the Rural Housing Service and the Rural Business-Cooperative Service is minimized. Nevertheless, there are changes which require our particular attention. Two of the most important:

1. The revised regulation identifies individuals and organizations, including Indian Tribes, Native Hawaiian organizations, and local governments, in addition to the SHPO, as consulting parties in the section 106 review process.
2. Public notice of the potential for impact to historic property listed or eligible for listing on the National Register of Historic Places is now explicitly required. The public notice procedures used for floodplains and wetlands under RD Instruction 1940-G must now be used, when appropriate, for proposed actions requiring a Class I or Class II environmental assessment under sections 1940.311 and 1940.312.

For actions listed as Categorical Exclusions in RD Instruction 1940-G, section 1940.310, we will consult with the SHPO when that action has the potential to impact property either listed or potentially eligible for listing on the National Register of Historic Places, (unless the State office has a programmatic agreement with the SHPO which states otherwise).

The Nationwide Programmatic Agreement for the Housing Preservation Grant Program (RD Instruction 2000-FF, Exhibit A) remains in effect. Any reference therein to 36 C.F.R. part 800 refers to the revised regulation.

State Environmental Coordinators (SECs) will take the lead in providing the necessary guidance and direction. SECs should contact the SHPO as soon as possible to discuss how the revised regulations will affect cooperative efforts in their State.

Field employees are encouraged to work closely with the SEC to implement the revised regulation. Additional guidance will be provided as it becomes available. The ACHP maintains an excellent website with considerable explanatory information at www.achp.gov. Questions or comments should be directed to Sue Wieferich, Federal Preservation Officer for RHS and RBS, Program Support Staff, at (202) 720-9647 or sue.wieferich@usda.gov.